

February 22, 2018

Mr. Ford called the Meeting of the Union Township Planning Board/Board of Adjustment to order at 7:00 p.m.

Messrs. Fernandez, Kastrud and Nace had been previously sworn by Atty. Anderson.

**Members Present:** Mr. Mazza, Mr. Walchuk, Mr. Nace, Mr. Eschbach, Mr. Kastrud, Mr. Fernandez, Mr. Kirkpatrick, Mr. Ford

**Members Absent:** Mr. Neary, Mr. Sullivan

**Others Present:** Board Atty. Mark Anderson, Board Engineer Robert Clerico, Republics Professionals Atty. Christopher DeGrazia, Engineer Brian Henning and Compliance Manager Carl Schmidt

**Open Public Meetings Act Notice:** I would like to have placed in the minutes that the Open Public Meeting Requirements of Law have been satisfied by our notices dated February 1, 2018, as published in the Hunterdon County Democrat and January 31, 2018, as published in the Courier News. A copy of the Notice has also been posted on the Township Website, the Bulletin Board in the Municipal Building and a copy has been filed with the Municipal Clerk.

**Approval of Minutes:** Mr. Mazza made a motion to approve the minutes of the January 25, 2018 Reorganization and Regular meetings. Mr. Eschbach seconded the motion.

Vote: All Ayes, No Nays, Motion Carried

**Public Hearing: Republic Services of NJ LLC: Block 22, Lot 30.03, 9 Frontage Road – Use Variance:** Mr. Ford stated that he and Messrs. Eschbach and Walchuk were in attendance at the January 25, 2018. He also said Messrs. Kastrud, Kirkpatrick and Nace had listened to a recording of the meeting and signed the required Certification; therefore they are eligible to take action on the application. Mr. Mazza left the podium prior to the Hearing.

Atty. Christopher DeGrazia gave a brief overview of the application to install a 15,000 gallon above ground fuel storage tank. Mr. DeGrazia referenced Exhibit A-1 - Site Aerial Plan showing the location of the proposed tank. He said Carl Schmidt, Engineering and Environmental Manager Schmidt had spoken about the function of the site and the reason Republic wants to install the diesel tank above ground and Project Engineer Brian Henning had described the proposed improvements at the January 25, 2018 Hearing. Messrs. Henning and Schmidt had been sworn at the January 25, 2018 Hearing and would be continuing under Oath.

Mr. Clerico had issued a report on February 20, 2018. Mr. Henning responded to that report. He said Mr. Clerico's report states that Republic is a solid-waste collection business. Mr. Henning stated the site functions as a parking and maintenance facility. There is no management of solid waste or recyclables at the site. Mr. Ford asked if trucks parked at the site contain waste. Mr. Henning replied "No, Sir".

Mr. Henning said a copy of the previous Resolution of approval was provided as requested by Mr. Clerico and applicant is not aware of any outstanding conditions or restrictions. Mr. Clerico referenced conditions in a 2003 Resolution that stated there would be no fueling of vehicles on the site. He also referenced Resolutions from 2005 and 2007. Atty. DeGrazia said the 2003 approval was for a different applicant and use. He thought that conditions in the 2009 Resolution to install a 10,000 gallon underground storage tank would be relevant.

Atty. Anderson recited his perspective for the Board. If approved, the Memorializing Resolution would state that all conditions of approvals prior to the Use Variance for an underground storage tank granted on April 23, 2009 continued without change. He emphasized the application before the Board is to replace, in its entirety, the Resolution dated April 23, 2009 and conditions in that Resolution would remain effective. Mr. Anderson said Resolutions prior to 2009 may or may not be applicable to the current operations. Mr. Kirkpatrick he remembered that applicant was specifically asking to modify a condition of the original site plan approval to allow fueling on the property and that all other conditions of site plan approval run with the land and are applicable. If those conditions are not complied with applicant would be vulnerable for enforcement action.

Mr. Schmidt responded to the above stating that applicant will follow through on compliance with previous conditions. Atty. DeGrazia concurred with Mr. Schmidt. Mr. Ford said that conditions in all previous Resolutions would be referenced in a Resolution approving the current application. Atty. DeGrazia recited the differences in the 2009 Resolution and those that would be applicable for this application. He said the 2009 approval was for a 10,000 gallon underground fuel storage tank with a canopy. This application is for an above-ground tank without a canopy and a request to change the hours of operation.

Atty. Anderson stated the conditions imposed by the Board on April 23, 2009: All construction shall be as shown on the Plans, except as noted in the Resolution; applicant shall comply with recommendation #3 in the report from Planning Board Engineer John Reymann; applicant shall comply with recommendation #2 in the report from Planner Carl Hintz regarding landscaping and lighting; applicant shall install a barrier between the bin storage area and the fueling area to the satisfaction of the Township Engineer; applicant shall implement a sampling plan to monitor water quality, the storm water discharge outlet and ground water immediately down gradient of the underground storage area; that condition would need to be modified to the satisfaction of the Board Engineer and Environmental Consultant. Mr. Henning said that requirement would be applicable to the underground tank. Mr. Kirkpatrick said the groundwater monitoring was set up for the underground tank and surface water monitoring.

Mr. Henning said the site is under the jurisdiction of NJDEP 5G2 Storm Water Permit. Applicant had submitted a Request for Authorization and was granted the Permit because they could demonstrate no exposure to source materials and therefore sampling at this site is not required by the NJDEP.

Enforcement is by unannounced inspections. Mr. Henning said the storm water prevention plan will be modified by him on behalf of the Permittee to reflect Best Management Practices associated with the addition of the tank to protect the integrity of the storm water for the reasons mentioned. He asked that the condition regarding storm water sampling be removed. Mr. Henning said he will modify the storm water pollution prevention plan to reflect the addition of the tank immediately after the installation of the tank. Mr. Kirkpatrick asked about fuel dripping from the nozzle onto the truck when refueling. Mr. Henning said the prevention plan mandates that any drips are cleaned up immediately. Atty. Anderson emphasized the record should reflect that those standards would carry over to another owner/operator. Mr. Henning said applicant would commit to collect an annual storm water sample and have it analyzed for oil residue. Mr. Kirkpatrick thought applicant should take a sample and include results of the analysis in their Annual Report to the State and the Township. Atty. Anderson said applicant shall provide its current maintenance schedule, with specific cleanout periods for the oil/water separators to the satisfaction of the Board Engineer; applicants' fueling pumps may only be used to fuel applicants' vehicles, fueling of any other vehicle on the site, including employee vehicles is prohibited; fueling of vehicles shall not begin before 8:00 a.m. and shall be completed by 7:00 p.m., except in emergencies; applicant shall connect its current alarm system to an alarm system with 24-hour monitoring.

Mr. Ford noted that no members of the public were present.

Mr. Henning stated he would defer to Planner Malcolm's Memo dated January 15, 2018 for comments related to the Use Variance aspect of the application unless the above-referenced 2003 Resolution reveals further relief was required. Applicant responded that they understand that no additional information is needed; the Use Variance and Site Plan were approved. He said a Deed Search revealed a 40-foot right-of-way that has been determined by a survey to be where Interstate 78 is now located. Mr. Henning said the tank installation will match the grade elevation of the existing bituminous pavement. He reiterated previous testimony regarding spill-containment measures. The tank is constructed of dual-wall steel and surrounded by steel safety bollards. A leak-detection system monitors the space between the primary and secondary walls and the piping system that delivers the fuel to the dispensers. Mr. Henning said there is an audible and illuminated enunciator that sends a signal to the Office. The tank has an emergency shut off system. Access to the tank will be controlled by way of a card or code reader. Procedures that vendors are required to follow when filling the tank will be posted and there is an alarm to signal and prevent overfill. Spill kits will be nearby and catch basins will have drain-blocker mats. The tank and its ancillary components will be inspected daily and daily usage will be monitored. The addition of the tank will trigger revisions to the site-specific storm water pollution plan and the spill-prevention plan. Mr. Clerico commented that the Site Plan should reflect those revisions. Atty. Anderson said alternatively the Resolution could include that information. Mr. Kirkpatrick said an employee must be present when the tank is being filled.

Mr. Henning continued. Additional lighting is proposed. The Plan should indicate the extent of existing and/or proposed lighting that will remain in operation at night. Dusk to dawn timers will be installed

thus the facility is illuminated after sunset hours. Mr. Kirkpatrick emphasized the Township's Lighting Ordinance requires full cutoff fixtures. Mr. Henning said applicants' study revealed that there will be no illumination at the property line. Mr. Clerico said that should be noted on the Plan.

Mr. Henning said applicant has no knowledge of an MS4 Permit. He said the existing potable well is inside of the building. Verbal communications with the Hunterdon County Health Department indicated there was not a problem with the well. Applicant will attempt to execute a NJDEP well search. Mr. Kirkpatrick said a condition of approval could be to require applicant to submit a letter demonstrating that the well was installed and operated in accordance with appropriate regulations. Mr. Clerico said the last condition would require applicant to provide an As-Built Plan.

Mr. Kastrud referenced the 2003 Resolution approving the underground storage tank. He asked the impetus to install a tank. Mr. Schmidt responded. He cited that fueling on-site saves time and money.

Mr. Ford asked for a motion to approve the application.

Mr. Kirkpatrick made a motion to approve the requested Site Plan and Variance application, subject to the conditions discussed and set forth above. The motion was seconded by Mr. Eschbach.

Ayes: Mr. Kirkpatrick, Mr. Eschbach, Mr. Walchuk, Mr. Nace, Mr. Kastrud, Mr. Ford

Abstain: Mr. Fernandez

**Comments from the Public/Other Business: None**

**Motion to Adjourn:** Mr. Kastrud made a motion to adjourn. Mr. Eschbach seconded the motion. (8:20 p.m.)

Vote: All Ayes, No Nays, Motion Carried

Grace A. Kocher, Secretary